

# **Regulations Relating to the Practices of Geology and Geophysics**

## **California Code of Regulations Title 16, Division 29 §§ 3000-3067**

### **Article 1. General Provisions**

#### **3000. Location of Offices.**

The principal office of the ~~Board for Professional Engineers and Land Surveyors~~ Board for Professional Engineers, Land Surveyors, and Geologists is located at 2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944.

*{Amended, effective February 23, 2011}*

#### **3001. Correspondence.**

All correspondence relating to the functions of the board including remittances and renewal fees shall be directed to the principal office of the board.

#### **3002. Tenses, Gender and Number.**

For the purposes of these rules and regulations, the present tense includes the past and the future tenses, and the future includes the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

#### **3003. Definitions.**

For the purposes of the rules and regulations contained in this chapter, the term:

(a) "Board" means the ~~Board for Professional Engineers and Land Surveyors~~ Board for Professional Engineers, Land Surveyors, and Geologists.

(b) "Engineering Geology" means the application of geologic data, principles and interpretation so that geologic factors affecting planning, design, construction and maintenance of civil engineering works are properly recognized and utilized.

(c) "Responsible Position" means a position whereby a person having individual control and direction of a geological project exercises individual initiative, skill and judgment in the investigation and interpretation of geological features, or the supervision of such projects. An individual can be considered to be in a responsible position even though not registered and working as a subordinate employee to a registered or qualified geologist.

(d) "Professional geological work" is work performed at a professional level rather than at a subprofessional or apprentice level and requires the application of scientific knowledge, principles and methods to geological problems through the exercise of individual initiative and judgment in investigating, measuring, interpreting and reporting on the physical phenomena of the earth. Implicit in this definition is the recognition of professional responsibility and integrity and the acknowledgment of minimal supervision.

"Professional geological work" specifically does not include such routine activities as drafting, sampling, sample preparation, routine laboratory work, etc., where the elements of initiative, scientific judgment and decision making are lacking, nor does it include activities which do not use scientific methods to process and interpret geologic data. Further, it specifically does not include soils engineering, soils sampling, soils testing or other activities in or related to the agricultural application of soils sciences. It also does not include mining, mining engineering or other engineering disciplines and/or other physical sciences wherein geological investigation, analysis and interpretation are minimal or lacking.

(e) "Professional geophysical work" is work performed at a professional level rather than at a subprofessional or apprentice level and requires the application of scientific knowledge, principles and methods to geophysical problems through the exercise of individual initiative and judgment in investigating, measuring, interpreting and reporting on the physical phenomena of the earth. Implicit in this definition is the recognition of professional responsibility and integrity and the acknowledgment of minimal supervision.

"Professional geophysical work" specifically does not include activities wherein the analysis or interpretation of geophysical or geological information is lacking. Such nonprofessional work could encompass party or crew chief and would encompass lesser forms of employment in field parties, the manufacture, assembly or maintenance and repair of geophysical instruments and equipment, computer programming, data processing or retrieval and routine activities normally performed by a technician in acquiring and reporting on geophysical information where the elements of initiative, scientific judgment and decision making are absent. It also does not include those engineering disciplines and other physical sciences wherein geophysical or geological investigation, analysis and interpretation are minimal or lacking.

(f) "Practice of Geology or Geophysics."

(1) The practice of geology or geophysics "for others" includes but is not limited to the preparation of geologic or geophysical reports, documents or exhibits by any commission, board, department, district or division of the state or any political subdivision thereof or of any county, city or other public body or by the employees or staff members of such commission, board, department, district or division of the state or any political subdivision thereof or of any county, city or other public body when such reports, documents or exhibits are disseminated or made available to the public in such a manner that the public may reasonably be expected to rely thereon or be affected thereby.

(2) The practice of geology or geophysics "for others" includes but is not limited to the performance of geological or geophysical services by any individual, firm, partnership, corporation or other association or by the employees or staff members thereof, whether or not the principal business of such organization is the practice of geology or geophysics, when the geological or geophysical reports, documents or exhibits constituting the practice of geology or geophysics are disseminated or made available to the public or any individual or combination of individuals other than the employees or staff of such organization in such a manner that the public or said individual or combination of individuals may reasonably be expected to rely thereon or be affected thereby.

(3) Geological or geophysical reports, documents or exhibits which are prepared by the employees or staff members of any individual, firm, partnership, corporation or other association or commission, board, department, district, or division of the state or any political subdivision thereof or of any county, city or other public body which are for use solely within such organization are considered "in-house" reports, documents or exhibits and are not the

practice of geology or geophysics for others unless or until such reports are disseminated or made available as set forth in subsection (1) or (2).

(g) "Code" means the Business and Professions Code.

(h) "Hydrogeology" means the application of the science of geology to the study of the occurrence, distribution, quantity and movement of water below the surface of the earth, as it relates to the interrelationships of geologic materials and processes with water, with particular emphasis given to groundwater quality.

*{Amended, effective February 23, 2011}*

#### **3004. Delegation of Certain Functions.**

(a) Whenever it is stated in these rules and regulations that the "board" may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the board specifically has reserved the same for its own, exclusive action.

(b) Whenever it is stated the "executive officer" may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the executive officer for the board has the authority to act thereon.

(c) Any real party in interest may appeal to the board for review of the actions and decisions of the executive officer.

(d) Nothing herein prohibits the executive officer from redelegating duties to his or her subordinates as provided in Section 18572 of the Government Code.

(e) The power and discretion conferred by law upon the board to receive and file accusations; issue notices of hearings, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code, issue subpoenas and subpoenas duces tecum, set and calendar cases for hearing and perform other functions necessary to the businesslike dispatch of the business of the board in connection with proceedings under the provisions of Section 11500 through 11528 of the Government Code prior to the hearing of such proceeding; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer, or, in his or her absence from the office of the board, his or her designee.

#### **3005. Fees.**

(a) All fees required by provisions of the code and rules of the board shall be transmitted by money order, bank draft or check, payable to the Department of Consumer Affairs.

(b) ~~Fees.—The following schedule of fees is hereby adopted pursuant to Section 7887 of the Code is the prescribed application fee for:~~

(1) ~~Each application for registration as a~~ Licensure as a Professional ~~g~~Geologist or a Professional ~~g~~Geophysicist \$250.00;

(2) ~~Each application for registration~~ Certification as a specialty geologist or specialty geophysicist \$250.00;

(3) The temporary ~~registration~~ licensure fee ~~for~~ as a geologist, geophysicist, ~~or~~ specialty geologist, or specialty geophysicist \$80.00.

(4) ~~Each examination including both sections of the national examination and the California specific supplemental examination for registration as a geologist—\$300.00~~

(c) The following is the prescribed examination fee for:

~~(5) (1) Each examination including only the practice of geology portion of the national examination for registration as a geologist \$150.00 \$250;~~

~~—(6) Each examination including only the fundamentals of geology portion of the national examination for registration as a geologist \$150.00~~

~~(7) (2) Each examination including only the practice of geology portion of the national examination and the supplemental examination covering The California specific subjects for registration as a geologist examination \$250.00 \$150;~~

~~(8) (3) Each examination including only the fundamentals of geology portion of the national examination and the supplemental examination covering California specific subjects for registration as a geologist \$250.00 \$150;~~

~~(9) Each supplemental examination covering California specific subjects for registration as a geologist \$100.00~~

~~(10) (4) Each examination for registration licensure as a geophysicist \$100.00;~~

~~(11) (5) Each examination for registration certification as a specialty geologist or specialty geophysicist \$100.00.~~

~~(d) (12) The duplicate certificate fee \$6.00.~~

~~(e) (13) The following is the prescribed renewal fee for:~~

~~(1) Licensure as a geologist or for a geophysicist \$270.00;~~

~~(14) (2) The renewal fee for Certification as a specialty geologist or for a specialty geophysicist \$67.50.~~

~~(f) (15) The delinquency fee for renewal of certificate of registration licensure as a geologist or geophysicist or certification as a specialty geologist or specialty geophysicist is 50% of the renewal fee in effect on the last regular renewal date.~~

~~(g) When transmitted through the mail, fees required under provisions of this rule shall be deemed filed on the date shown by the post office cancellation mark appearing on the envelope containing the fee.~~

~~(d) An applicant for registration as a geologist or geophysicist or an applicant for certification as a specialty geologist or specialty geophysicist who fails an examination shall pay only the examination fees pursuant to subsections (b)(4), (5), (6), (7), (8), (9), (10) and (11) to reapply to take the examination within four years of the failed examination.~~

*{Amended effective May 23, 2012}*

### **3008. Seal.**

(a) The seal authorized by Section 7852 of the Code may be purchased by the registrant from any convenient source. It shall be of the design shown here and shall be not less than one and one-half (1 1/2) inches in diameter.



(b) The certified specialty geologist seal shall be of the design shown here and shall be not less than one and one-half (1 1/2) inches in diameter.



(c) The seal authorized by Section 7852.1 may be purchased by the registrant from any convenient source. It shall be of the design shown here and shall not be less than one and one-half (1 1/2) inches in diameter.



(d) The seals authorized by Section 7852 and Section 7852.1 shall not be used on a Real Estate Transfer Disclosure Statement required by Section 1102.6 of the Civil Code. However the seals authorized by Sections 7852 and 7852.1 shall be used on any geologic or geophysical report or opinion, dealing with matters within the scope of the professional's license and expertise, if said report or opinion is attached separately as a substituted disclosure pursuant to a Real Estate Transfer Disclosure Statement required by Section 1102.6 of the Civil Code.

### **3009. Address Change.**

Each person who is an applicant for registration or a holder of a certificate of registration, license or permit from the board shall notify the board at its Sacramento office within 60 days of any and all changes, giving both his or her old and new address.

## **Article 2. Applications**

### **3021. Applications.**

Applications for registration as a geologist, certified specialty geologist, or ~~geophysicists~~ geophysicist shall be:

(a) Filed on a form prescribed by the board, accompanied by the required application fee and examination fee.

(b) Filed with the board at least one hundred (100) days prior to the scheduled examination. All documentation in support of the applications shall be submitted to the board within seventy (70) days prior to the scheduled examination. Applications and supporting documentation not received by the board within the timeframes specified shall not be considered for that examination. An application mailed to the board shall be deemed filed on the date shown by the post office cancellation mark appearing on the envelope.

(c) An application which is not submitted in proper form will not be accepted by the board and will be returned by the executive officer with a statement of the reason therefor.

*{Amended, effective February 23, 2011}*

### **3023. Date of Education and Experience.**

The qualifying education and experience for examination and registration as a geologist or geophysicist or certification as a specialty geologist or specialty geophysicist shall include the one hundred (100) days provided in Section 3021 for processing and acceptance of the application by the board prior to the date of the examination. The applicant shall promptly give written notice to the board in the event the applicant's work situation changes and the one hundred (100) days from the final filing date of the application to the examination date credited for qualifying education and experience, or the portion that is required for qualification, are not performed.

### **3024. Abandoned Applications.**

(a) In the absence of special circumstances, the board shall consider an application abandoned when:

(1) The applicant fails to submit a registration fee within 6 months of the date of the letter of notification that the application has been received and approved or

(2) The applicant fails to appear for a scheduled examination without obtaining a postponement from the board prior to the date of the examination or without scheduling to take the examination within the next two subsequent examinations as follows:

(A) An applicant for registration as a geologist shall obtain a postponement no later than fifty (50) days prior to the date of the examination.

(B) An applicant for registration as a geophysicist or certification as a specialty geologist or specialty geophysicist shall obtain a postponement no later than fifteen (15) days prior to the date of the examination, or

(3) The applicant fails to respond within 6 months of a board request for additional information concerning the applicant's educational background or professional geological or geophysical work experience.

(b) An applicant may be granted an emergency postponement not less than five days prior to such examination by the board for good cause.

(c) The application fee will be retained by the board when an application has been declared abandoned.

(d) In the event an applicant fails to appear for a scheduled examination without obtaining a postponement from the board, the board shall retain a portion of the examination fee as follows:

(1) For failure to appear as scheduled for two sections of the national examination the board shall retain \$75.00 of the examination fee.

(2) For failure to appear as scheduled for one section of the national examination, the board shall retain \$50.00 of the examination fee.

(3) For failure to appear as scheduled for an examination for registration as a geophysicist or certified engineering geologist or certified hydrogeologist, the Board shall retain \$25.00 of the examination fee.

### **3026. Unqualified Applicant: Refund of Examination Fee.**

If an applicant for registration as a geologist or geophysicist or certification as a specialty geologist or specialty geophysicist is found by the Board to lack the qualifications required for admission to the examination for such registration, the board shall refund to the applicant the amount of the applicant's examination fee only.

### **3028. Review of Applications.**

(a) Within one hundred twenty (120) days after receipt of an application, the board shall inform the candidate in writing whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

(b) The board shall render a decision concerning a candidate's written examination results within three hundred thirty (330) days after the filing of a completed application for written examination. This processing time applies to those candidates who submit their completed written examination application on the examination filing deadline.

(c) The following time frame shall apply to applications for registration under section 7847, when no examination is required.

(1) Within ninety (90) days of receipt of an application the board shall inform the applicant in writing that the application, is either complete or that it is deficient and what specific information or document is required to complete the application.

(2) Within two hundred seventy (270) calendar days after the date of filing an application, the board shall make a decision on the application for registration.

### **3029. Processing Times.**

(a) The minimum, median and maximum process time for an application from the time of receipt of the completed application until the board makes a decision thereon concerning an applicant's eligibility to take an examination is set forth below.

Minimum - 41 days

Median - 113 days

Maximum - 239 days

(b) The minimum, median and maximum processing times for written examination results from the time of receipt of a completed application until the board makes a decision thereon is set forth below:

Minimum - 175 days

Median - 202 days

Maximum - 236 days

These processing times apply to those candidates who submit a completed written examination application on the examination filing deadline.

(c) The minimum, median and maximum process time for an application filed under section 7847 from the time of receipt of an application until the applicant is informed in writing that the application is complete or that it is deficient and what specific information or documents are required to complete the application is set forth below.

Minimum - 30 days

Median - 60 days

Maximum - 90 days

(d) The minimum, median and maximum process time for an application filed under section 7847 from the time of receipt of the completed application until the board makes a decision thereon concerning an applicant's eligibility to be registered under that section is set forth below.

Minimum - 30 days

Median - 150 days

Maximum - 270 days

### **Article 3. Examinations**

#### **3031. Examination Required.**

(a) Every applicant for registration as a geologist shall be required to take and pass examinations as provided in Section 7841(d) of the code or every applicant for registration as a geophysicist, or every applicant for certification in any specialty, shall be required to take and pass an examination as prescribed by the board except as provided in Section 7847 of the code.

(b) To be eligible for the geological examination, an applicant shall have completed at least five years of educational and work experience in professional geological work, as set forth in subdivisions (b) and (c) of Section 7841 of the code.

(1) Graduate study or research in geological sciences at a school or university whose geological curricula meet criteria established by rules of the board, shall be counted on a year-for-year basis in computing the experience requirements specified in Section 7841 of the code. A year of graduate study or research is defined as being a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Shorter periods will be prorated.

(2) An applicant shall not be eligible to earn credit for professional geological work performed under the supervision of a professional geologist or registered civil or petroleum engineer until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841 of the code.

(3) In no case will credit be given for professional geological work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time professional geological work experience will be prorated and combined on a 12 calendar month basis.

(c) To be eligible for the geophysical examination, an applicant shall have completed at least seven years of educational and work experience in professional geophysical work, as set forth in subdivisions (b) and (c) of Section 7841.1 of the code.

(1) Graduate study or research in geophysical related sciences at a school or university whose geophysical curricula meet criteria established by rules of the board, shall be counted on a year-for-year basis in computing the experience requirements specified in Section



7841.1 of the code. A year of graduate study or research is defined as being a 12 calendar month period during which the candidate is enrolled in a full-time program of graduate study or research. Shorter periods will be prorated.

(2) An applicant shall not be eligible to earn credit for professional geophysical work performed under the supervision of a professional geophysicist until the applicant has completed the educational requirements set forth in subdivision (b) of Section 7841.1 of the code.

(3) In no case will credit be given for professional geophysical work experience performed during the same time period when full-time graduate study or research is being done for which educational experience credit is being allowed. Part-time graduate study or research and part-time professional geophysical work experience will be prorated and combined on a 12 calendar month basis.

(d) Every applicant for registration as a geologist who obtains a passing score determined by a recognized criterion-referenced method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition. This subsection shall become effective on December 1, 1998, and shall be repealed on December 31, 1999.

(e) Each applicant for registration as a geologist who obtains a passing score on the Fundamentals of Geology and Practice of Geology examinations created by the National Association of State Boards of Geology on or after November 1, 1996 and obtains a passing score as determined by a recognized criterion-referenced method of establishing the pass point in the California specific examination pursuant to Section 7841(d) shall be deemed to have passed the required examinations for licensure as a professional geologist in California. This subsection shall become effective on January 1, 2000.

(1) Candidates shall receive credit for obtaining a passing score on the Fundamentals of Geology examination, the Practice of Geology examination and the California specific examination and shall be required to submit an application to retake and pass only those examinations previously failed.

(f) Every applicant for registration as a geophysicist or for certification in any specialty, who obtains a passing score determined by a recognized criterion-reference method of establishing the pass point in the California examination shall be deemed to have passed the California examination. Such a passing score may vary moderately with changes in test composition.

### **3032. Regular Written Examination.**

(a) The regular written examination for registration as a geologist, geophysicists, or for certification in a specialty shall be held not less than once nor more than twice each calendar year.

(b) The executive officer shall publish annually, not later than October 1st of each calendar year, a schedule of examinations for the following year.

(c) Whenever circumstances warrant, the board may postpone, advance, or otherwise change the examination schedule previously published.

### **3035. Examination Irregularities.**

(a) Examinees are forbidden to receive any unauthorized assistance during the examination. Communication between examinees or possession of unauthorized matter or devices during the examination is strictly prohibited.

(b) Only scheduled examinees, board members, the executive officer and authorized examination personnel shall be admitted to the examination room.

**3036.1. Inspection of Geophysicist or Specialty Geologist or Specialty Geophysicist Examination.**

(a) An applicant for registration as a geophysicist or certification as a specialty geologist or specialty geophysicist who obtains a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the written examination may inspect the applicant's examination papers at such times and locations as may be designated by the executive officer. Inspection of such examination papers shall be permitted within 60 days after receipt of notice by the applicant of the applicant's failure to pass the examination. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be allowed to inspect their examinations.

(b) At the time of inspection, no one other than the examinee or the applicant's attorney and a representative of the board shall have access to such examination papers.

**3036.2. Inspection of Geologist Examination.**

(a) An applicant for registration as a geologist who obtains a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the written examination may inspect the applicant's examination papers at such times and locations as may be designated by the executive officer. Inspection of such examination papers shall be permitted within 60 days after receipt of notice by the applicant of the applicant's failure to pass the examination. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be allowed to inspect their examinations.

(b) At the time of inspection, no one other than the examinee or the applicant's attorney and a representative of the board shall have access to such examination papers.

This section shall be repealed on December 31, 1999.

**3037.1. Geophysicist or Specialty Geologist or Specialty Geophysicist Examination Appeal.**

(a) At the time of inspection of an applicant's examination papers as provided in section 3036.1, an applicant for registration as a geophysicist or certification as a specialty geologist or specialty geophysicist who obtained a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the examination may appeal to the board for a review of the applicant's examination papers. Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be eligible to appeal their examination results.

(b) The appeal for a review shall be made in writing stating the reason for such appeal and citing the item or items against which the request is directed.

**3037.2. Geologist Examination Appeal Until January 1, 2000.**

(a) At the time of inspection of an applicant's examination papers as provided in section 3036.1, an applicant for registration as a geologist who obtained a failing score of 10 percentage points or less below the passing score established by the criterion-referenced pass point method on the examination may appeal to the board for a review of the applicant's examination papers.

Applicants who score more than 10 percentage points below the established criterion-referenced pass point shall not be eligible to appeal their examination results.

(b) The appeal for a review shall be made in writing stating the reason for such appeal and citing the item or items against which the request is directed.

This section shall be repealed on December 31, 1999.

#### **Article 4. Specialties**

##### **3041. Specialty in Engineering Geology.**

Only a professional geologist is eligible for certification in a specialty. Application may be submitted for both registration as a geologist and for certification in a specialty at the same time, but the applicant must be approved for registration as a geologist before being considered for certification in a specialty. The certification in a specialty is, in every case, dependent upon the approval of registration as a geologist.

(a) The specialty of "Engineering Geology" is hereby created as a division of the certification of registration as a geologist.

In addition to the provisions of Section 7842 of the Code, an applicant for certification in the specialty of "Engineering Geology" shall:

- (1) Be registered as a geologist in the State of California.
- (2) Have a knowledge of:
  - (A) Geology of the State of California.
  - (B) Geologic factors relating to Civil Engineering problems typically encountered in the State.
  - (C) Elementary soil and rock mechanics.
  - (D) Principles of grading codes and other pertinent regulations. (Appendix Chapter 33, 1997 Uniform Building Code).

Experience in engineering geology used to qualify for registration as a geologist may also be used to qualify for certification as an engineering geologist.

In addition to the above, an applicant shall submit three references from qualified engineering geologists, and may be required, in the board's discretion, to submit one or more engineering geology reports prepared mainly or wholly by the applicant.

##### **3042. Specialty in Hydrogeology.**

(a) A specialty in "Hydrogeology" is hereby created as a division of the certification of registration as a geologist. The creation of the certification in hydrogeology is established to protect the health, safety and welfare of the people of the State of California.

(b) In addition to the provisions of section 7842 of the Code, an applicant for certification in the specialty of "hydrogeology" shall comply with the following:

- (1) Be registered as a geologist in the State of California.
- (2) Have a knowledge of and experience in:
  - (A) Geology of the State of California.
  - (B) Geologic factors relating to the water resources of this State.
  - (C) Principles of groundwater hydraulics/hydrology and groundwater quality including the vadose zone.
  - (D) Applicable federal, state and local rules and regulations.

(E) Principles of water well, monitoring well, disposal well, and injection well construction.

(F) Elementary soil and rock mechanics in relation to groundwater, including the description of rock and soil samples from wells.

(G) Interpretation of borehole logs as they relate to porosity, hydraulic conductivity or fluid character.

(c) Experience in hydrogeology used to qualify for registration as a geologist may also be used to qualify for certification as a hydrogeologist.

(d) An applicant for certification as a hydrogeologist shall submit, with the applicant's application, three (3) references from either certified hydrogeologists or professional geologists who have a minimum of five years' experience in responsible charge of hydrogeological work. An applicant may also be required to submit one or more hydrogeology reports which were prepared by the applicant or the applicant was closely associated with during its preparation.

(e) A civil engineer registered to practice engineering in this state, under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, insofar as he or she practices civil engineering is exempt from the provisions for certification as a hydrogeologist.

## **Article 5. Denial, Suspension and Revocation of Registration**

### **3060. Substantial Relationship Criteria.**

For the purpose of denial, suspension, or revocation of the registration of a geologist, specialty geologist, geophysicists or specialty geophysicists pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions, and duties of a geologist, specialty geologist, geophysicists or specialty geophysicists if to a substantial degree it evidences present or potential unfitness of such geologist or geophysicists to perform the functions authorized by his registration in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include, but not be limited to, the following:

(a) Any violation of the provisions of Chapter 12.5 of Division 3 of the Business and Professions Code.

### **3061. Criteria for Determining Rehabilitation or Appropriate Discipline.**

(a) When considering the denial of the registration of a geologist, specialty geologist, geophysicists or specialty geophysicists under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for registration, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of the registration of a geologist, specialty geologist, geophysicist or specialty geophysicist on the grounds that the registrant has been convicted of a crime or violation of the Geologist and Geophysicist Act, the board or administrative law judge, in evaluating the appropriate level of discipline or rehabilitation of such person and his or her present eligibility for registration will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(7) Actual or potential harm to the public, client, or employee.

(8) Prior disciplinary record.

(9) Number and/or variety of current violations.

(c) When considering a petition of reinstatement of the registration of a geologist, specialty geologist, geophysicist or specialty geophysicist, the board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection (b).

### **3062. Citations of Unregistered Persons.**

(a) The executive officer is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code sections 148 and 149 against persons acting in the capacity of or engaging in the practice of a geologist, geophysicist, or certified specialist within this state without registration or certification in any discipline as a geologist, geophysicist, or certified specialist.

(b) If the executive officer has reasonable cause to believe that a person is acting in the capacity of, or engaging in the practice of, a geologist, geophysicist or certified specialist within this state without having a registration to so act or engage, the executive officer may issue a citation to that person.

(c) Each citation for violation shall be in writing and shall describe with particularity the basis of the citation including specific reference to the provision of law determined to have been violated.

(d) Each citation may contain an order of abatement or may contain an assessment of an administrative fine in an amount not more than two thousand five hundred dollars (\$2,500).

(e) Service of a citation issued under this section shall be made by certified mail at the last known business address or residence address of the person cited and shall include information regarding appeal rights and copies of the applicable code sections violated.

### **3062.1. Assessment of Administrative Fines.**

(a) Before assessing an administrative fine pursuant to Section 3062, the executive officer shall give due consideration to the gravity of the violation, the good faith of the person cited, and the history of previous violations.

(b) In no event shall the administrative fine be assessed in an amount greater than two thousand five hundred dollars (\$2,500) for each inspection or each investigation made with respect to any violation of the following provisions:

Business and Professions Code Section and Description

7830 Title Professional Geologist, or Certified Engineering Geologist, or Hydrogeologist

7830.1 Title of Professional Geophysicist

7832 Offers to Practice or Practices Geology or Geophysics for Others

7834 Unregistered Practice by Partnership or Corporation

7835 Sign or Seal Reports (Geology)

7835.1 Sign or Seal Reports (Geophysics)

7872(a) Unregistered Practice

7872(b) Presents or Attempts to File as His/Her Own the Certificate of Another

7872(d) Impersonates or Uses the Seal of Any Other Practitioner

7872(e) Uses Expired or Revoked Certificate of Registration

7872(g) Unregistered Manager, Proprietor, or Agent of Business from Which Geological or Geophysical Work is Solicited, Performed, or Practiced for Others

7872(h) Violation of Any Provision of the Geologist and Geophysicist Act

(c) Notwithstanding the administrative fine amounts specified in this section, a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person;
2. The cited person has a history of two or more prior citations of the same or similar violations;
3. The citation involves multiple violations that demonstrate a willful disregard of the law;
4. The citation involves a violation or violations perpetrated against a child, elderly person or person with a disability.

### **3062.2. Appeal of Citations.**

(a) Any person served with a citation pursuant to Section 3062 may submit a written request for appeal to the executive officer within 30 days of the date of issuance of the citation. The person cited, also, may submit a written request within 30 days of the date of issuance of the citation for an informal conference with the executive officer with respect to violations alleged, scope of the order of abatement, or amount of administrative fine assessed.

(b) The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the person cited and/or his or her legal counsel or authorized representative. The 30 day period may be extended by the executive officer for good cause. At the conclusion of the informal conference, the executive officer shall either affirm, modify or dismiss the citation, including any administrative fine levied or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve a copy of the findings and decision to the cited person within 30 days from the date of the informal conference. Service shall be made by certified mail at the last known business address or residence address of the person cited. The decision shall be deemed to be a final order of the executive officer.

(c) If the person cited submits a written request to appeal the citation within 30 days of the citation's issuance, the cited person shall be afforded an opportunity for a hearing, as provided for in subsection (b)(4) of section 125.9 of the Business and Professions Code.

(d) The cited person does not waive his or her right to request a hearing to appeal the citation by requesting an informal conference after which conference the citation is affirmed by the executive officer. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested in writing within 30 days of issuance of the subsequent citation in accordance with subsection (b)(4) of Section 125.9 of the Business and Professions Code.

(e) If, within 30 days of the date of issuance of the citation, the person cited has failed to file a written request to appeal the citation with the executive officer, the citation shall be deemed a final order.

### **3062.3. Failure to Comply with Order.**

(a) The failure of an unregistered person acting as a geologist, geophysicist or certified specialist to comply with a citation or pay a fine after it is final is a ground for denial of registration.

(b) Notwithstanding any other provisions of the law, the executive officer may waive all or part of the administrative fine if the cited person satisfactorily completes all the requirements for, and is issued, a registration. Any outstanding injury to the public shall be settled to the satisfaction of a majority of the Board members prior to issuance of the registration.

### **3062.4. Disconnection of Telephone Service.**

(a) If, upon investigation, the executive officer has probable cause to believe that an unregistered individual acting in the capacity of a geologist, geophysicist or certified specialist, who is not otherwise exempted from the provisions of the Geologist and Geophysicist Act and is advertising in a telephone directory, without being properly registered, or certified, the executive officer may issue a citation under Section 3062 containing an order of abatement which requires the cited person to both cease the unlawful advertising and notify the telephone company furnishing services to the cited person to disconnect the telephone services furnished to any telephone number contained in the unlawful advertising, and that subsequent calls to that number shall not be referred by the telephone company to any new telephone number obtained by that person. The cited person shall provide written evidence of compliance to the executive officer.

(b) The citation shall be stayed if the person to whom a citation is issued under subdivision (a) submits a written request to the executive officer for a hearing to appeal the citation. The executive officer shall afford an opportunity for a hearing, as specified in Section 3062.2.

(c) If the person to whom a citation and order of abatement is issued under subdivision (a) fails to comply with the order of abatement after the order is final as provided in Section 3062.2, the executive officer shall inform the Public Utilities Commission of the violation in accordance with Business and Professions Code section 149.

### **3063. Citations of Registered Persons.**

(a) The executive officer is authorized to issue citations containing orders of abatement or administrative fines pursuant to Business and Professions Code section 125.9.

(b) If the executive officer has reasonable cause to believe that a geologist, geophysicist or certified specialist has committed any act or omission where the registrant is in violation of the Geologist and Geophysicist Act, the executive officer may, in lieu of filing an accusation, issue a citation to the registrant.

(c) Each citation for violation shall be in writing and shall describe with particularity the basis of the citation, including specific reference to the provision of law determined to have been violated.

(d) Each citation may contain: (1) an order of abatement, which may include the fixing of a reasonable time for abatement of the violation; or (2) an assessment of an administrative fine in an amount not more than two thousand five hundred dollars (\$2,500).

(e) Service of a citation issued under this section shall be made by certified mail to the registrant's address of record and shall include information regarding appeal rights and copies of the applicable code sections violated.

### **3063.1. Assessment of Administrative Fines.**

(a) Before assessing an administrative fine under section 3063, the executive officer shall give due consideration to the gravity of the violation, the good faith of the cited person, and the history of previous violations.

(b) In no event shall the administrative fine be assessed in an amount greater than two thousand five hundred dollars (\$2,500) for each inspection or each investigation made with respect to any violation of the following provisions:

Business and Professions Code section and Description

7831 Use of Expired, Suspended, or Revoked Registration

7839 Practice or Attempts to Practice Civil Engineering

7839.1 Geologist or Geophysicist Practicing Outside Area of Registered Practice

7860(b) Committed Deceit, Misrepresentation, Violation of Contract, Fraud, Negligence, Incompetence in Practice

7860(d) Aiding and Abetting in the Violation of Any Provision of the Geologist and Geophysicist Act

7872(b) Presents or Attempts to File as His/Her Own the Certificate of Another

7872(d) Impersonates or Uses the Seal of Any Other Practitioner

7872(e) Uses Expired or Revoked Certificate of Registration

7872(h) Violation of Any Provision of the Geologist and Geophysicist Act

(c) Notwithstanding the administrative fine amounts specified in this section, a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

1. The citation involves a violation that has an immediate relationship to the health and safety of another person;

2. The cited person has a history of two or more prior citations of the same or similar violations;

3. The citation involves multiple violations that demonstrate a willful disregard of the law;

4. The citation involves a violation or violations perpetrated against a child, elderly person or person with a disability.



### **3063.3. Appeal of Citations.**

(a) Any geologist, geophysicist or certified specialist served with a citation pursuant to Section 3063, may submit a written request for appeal to the executive officer within 30 days of the date of issuance of the citation. The cited person, also, may submit a written request within 30 days of the date of issuance of the citation for an informal conference with the executive officer with respect to violations alleged, abatement periods, amount of fines, and the reasonableness of the action required to abate the violation.

(b) The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the person cited and/or his or her legal counsel or authorized representative. The 30 day period may be extended by the executive officer for good cause. At the conclusion of the informal conference, the executive officer shall either affirm, modify or dismiss the citation, including any administrative fine levied or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve a copy of the findings and decision to the cited person within 30 days from the date of the informal conference. Service shall be made by certified mail at the last known business address or residence address of the person cited. The decision shall be deemed to be a final order of the executive officer.

(c) If the geologist, geophysicist or certified specialist cited submits a written request for a hearing to appeal the citation within 30 days of the citation's issuance, the cited person shall be afforded an opportunity for a hearing, as provided for in subsection (b)(4) of section 125.9 of the Business and Professions Code.

(d) The cited person does not waive his or her right to request a hearing to appeal the citation by requesting an informal conference, after which conference the citation is affirmed by the executive officer. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested in writing within 30 days of issuance of the subsequent citation in accordance with subsection (b)(4) of Section 125.9 of the Business and Professions Code.

(e) If, within 30 days of the date of issuance of the citation, the geologist, geophysicist or certified specialist cited has failed to file a written request to appeal the citation with the executive officer, the citation shall be deemed a final order.

### **3063.4. Failure to Comply with Citations.**

(a) The failure of a geologist, geophysicist or certified specialist to comply with a citation or pay a fine after it is final is grounds for suspension or revocation of a registration.

(b) If a geologist, geophysicist or certified specialist does not appeal a citation and fails to pay all of the fine, the balance due for the fine shall be added to the renewal fee for the registration and the registration shall not be renewed until the fine is paid in full pursuant to subsection (b)(5) of Section 125.9 of the Business and Professions Code.

### **3064. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (initially published July 1992, republished January 1996,

revised June 1998) which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.

### **3065. Professional Standards and Code of Professional Conduct - Professional Geology and Geophysics.**

To protect and safeguard the health, safety, welfare, and property of the public, and California's environmental quality, every person who is licensed by the ~~Board for Professional Engineers and Land Surveyors~~ Board for Professional Engineers, Land Surveyors, and Geologists (Board) as a professional geologist or professional geophysicist, including licensees employed in any manner by a governmental entity or in private practice, shall comply with the professional standards in this section. A violation of any of the following professional standards shall constitute unprofessional conduct and shall be sufficient grounds for disciplinary action.

(a) Compliance with Applicable Law:

A licensee shall provide all geologic and geophysical services in a manner consistent with applicable laws, codes, ordinances, rules and regulations. A licensee may obtain and rely upon the knowledge and advice of other professionals (e.g., architects, attorneys, professional engineers, other professional geologists and geophysicists, land surveyors, and other qualified persons) concerning the intent and meaning of such laws, codes, and regulations.

(b) Competence:

(1) Licensed geologists or licensed geophysicists (together with those whom the licensee may engage as consultants) shall perform or offer to perform only those professional services for which they are qualified by education, training, experience, and licensure as required by law, in the specific technical and scientific areas involved.

(2) When practicing geology or geophysics, a licensee shall act with competence and reasonable care, and shall apply the technical knowledge and skill which is ordinarily practiced by licensees in good standing, practicing in this state under similar circumstances and conditions.

(c) Representations:

(1) A licensee shall not misrepresent or permit the misrepresentation of his or her professional qualifications, affiliations; or purposes, or those of the institutions, organizations or other businesses with which they are associated.

(2) A licensee may advertise or solicit those professional services for which he or she is authorized by licensure, provided such services are within his or her field of competence.

(3) A licensee shall not misrepresent his or her qualifications to a prospective or existing client or employer.

(4) A licensee shall not misrepresent to a prospective or existing client, the licensee's scope of responsibility in connection with those professional services for which the licensee is receiving or will receive compensation, whether directly or indirectly. Specifically, a licensee who represents that a project was completed under his or her responsible charge (i.e., stamped and/or signed) must also have maintained responsible charge of the work.

(5) A licensee shall only express professional opinions which have a basis in fact, are within the scope of the licensee's own experience or knowledge, and are generally accepted geologic or geophysical principles.

(6) A licensee shall attribute proper credit to others for their professional work or professional contribution, and shall not misappropriate the professional work of others.

(7) A licensee shall not knowingly permit the publication or use of his or her data, reports, maps, plans, or other professional documents for any unlawful purpose.

(8) A licensee shall not falsely or maliciously attempt to injure, impugn or, in fact injure the professional reputation or business of others.

(9) A licensee shall not misrepresent data or its relative significance in any geologic or geophysical work product or oral conveyance of his or her professional opinion.

(10) A licensee shall not misrepresent or conceal the scope of his or her professional responsibility in connection with those professional services for which the licensee is claiming any responsibility or credit, or for which the licensee is receiving any compensation.

(11) When providing information to the Board pursuant to another's application for licensure to practice professional geology or geophysics, a licensee shall accurately represent his or her knowledge of the applicant's qualifications and qualifying experience.

(d) Conflict of Interest:

(1) A licensee shall not concurrently engage in any other business, occupation or have a financial interest in any entity that may impair his or her independent judgement, objectivity; or which may create a conflict of interest in rendering his or her professional services.

(2) A licensee shall not accept compensation for his or her professional services from more than one party on any project, endeavor, or proceeding unless the circumstances are fully disclosed and agreed to in writing by all concerned parties.

(3) If a licensee has any business association or financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the licensee shall fully disclose in writing to his or her client(s) or employer(s) the nature of the business association or financial interest. If the client(s) or employer(s) object(s) to such association or financial interest, the licensee shall either terminate such association or interest, or offer to give up the project or employment.

(4) A licensee shall not solicit or accept payments, rebates, refunds, commissions, or compensation, whether in the form of money or otherwise from other professionals, contractors, suppliers of material, systems or equipment in return for specifying their products or professional services to a client or employer of the licensee.

(e) Confidential Information:

As used in this section, "confidential information" means all information, specifically identified as confidential by the licensee's client, employer, representative, or other related entity. Confidential information obtained by a licensee in his or her professional capacity, shall not be disclosed by the licensee without prior permission, except under the following specific conditions:

(1) disclosures made in response to a subpoena or summons enforceable by an order of a court;

(2) disclosures made in response to an official inquiry from a governmental regulatory agency;

(3) disclosures made by a licensee to another licensee to the extent necessary for purposes of professional consultation;

(4) disclosures made when required by law, code, or regulation.

(5) disclosures made upon discovery of a hazard within the licensee's field of professional expertise, which, in the licensee's professional opinion, is a threat to the health, safety and welfare of the public.

(6) disclosures made when providing evidence to the Board concerning another licensee or unlicensed individual, who may have violated any part of the Geologist and Geophysicist Act or this Section;

(7) disclosures made regarding alleged illegal conduct; or

(8) disclosures made in an adjudicatory proceeding or pursuant to an order of the court.

(f) Document Submittal

(1) A licensee shall not misrepresent the completeness of any professional geologic or geophysical document submitted to any governmental or regulatory agency.

(2) A licensee shall not misrepresent the completeness of any professional geologic or geophysical document prepared for his or her client, employer, or other involved party.

*{Amended, effective February 23, 2011}*

**3066. License Notification.**

(a) Every licensee shall provide notice to his or her clients that he or she is licensed by the Board. Notice shall be provided by any of the following methods:

(1) Displaying his or her license certificate in a public area of the premises where the licensee provides the licensed service.

(2) Posting a notice in a public area of the premises where the licensee provides the licensed services, in at least 48-point type, that states that the named licensee is licensed by the Board.

(3) Providing a statement to each client, to be signed and dated by the client and retained in the licensee's records, that states that the client understands that the licensee is licensed by the Board.

(b) The party or parties in responsible charge of geologic and/or geophysical projects shall:

(1) Include a statement that he or she is licensed by the Board on contracts for service, bid documents, and/or responses to requests for proposals or qualifications, where the notice is placed immediately above the signature line for the client in at least 12-point type.

(2) Print his or her license number on the firm's correspondence.

(3) Print his or her license number on the firm's business cards bearing his or her name.

(c) A licensed principal or partner in a geologic or geophysical firm shall:

(1) Print his or her license number on all advertising including telephone directory and website.

**3067. Public Information System - Disclosure.**

(a) The Board has established and maintains a public information system to provide members of the public with information regarding complaints and disciplinary or enforcement actions against professional geologists, geophysicists and unlicensed persons subject to the Board's jurisdiction. Such a system also provides the public with information regarding the license status of the Board's licensees and registrants.

Information subject to the public information system shall be disclosed to members of the public, upon request, by telephone, in person, or in writing (including fax or e-mail). Such information, when feasible and to the extent required or permitted by law, shall be made

available by the Board in writing or by telephone. Requests for information shall be responded to within 10 days.

(b) The Board shall disclose the following information regarding past and current licensees:

- (1) The name of the licensee, as it appears in the Board's records;
- (2) The license number;
- (3) The address of record;
- (4) The license issue date;
- (5) The license expiration date; and
- (6) The license status and history.

(c) Unless otherwise required by law, the Board shall disclose the following information regarding disciplinary or enforcement action taken against licensees and unlicensed persons, if applicable:

- (1) Total number of disciplinary and enforcement actions taken by the Board;
- (2) Brief summary of disciplinary and enforcement actions taken by the Board; citations that have been satisfactorily resolved shall be disclosed as such;
- (3) Current status of pending Accusations, Statements of Issues, and Citations filed by the Board. Disclosure of pending actions shall contain a disclaimer stating that any pending administrative action against the person is alleged and no final legal determination has yet been made. Further disclaimers or cautionary statements regarding such pending actions may also be made; and
- (4) Information which is statutorily mandated to be disclosed.

(d) The Board shall disclose complaint information when the Executive Officer has determined that:

- (1) The complaint information has a direct and immediate relationship to the health and safety of another person; and
- (2) One or more of the following have occurred:
  - (A) A complaint involves a dangerous act or condition caused by the subject of the complaint that has or could result in a death, bodily injury, or severe consequences, and disclosure may protect the consumer or prevent additional harm to the public;
  - (B) A series of complaints against a party alleging a pattern of unlawful activity have been received by the Board and it has been determined that disclosure may protect the consumer or prevent additional harm to the public;
  - (C) A complaint has been referred to the Attorney General for filing of an Accusation or Statement of Issues; or
  - (D) A complaint has been referred to other law enforcement entity for prosecution.

(e) Complaint information that is determined to meet the conditions for disclosure listed in subsection (d) shall be incorporated into the public information system no later than 10 days after the conditions for disclosure have been met.

(f) Information about a complaint shall not be disclosed if it is determined by the Executive Officer that any of the following apply:

- (1) Disclosure is prohibited by statute or regulation;
- (2) Disclosure might compromise an investigation or prosecution; or
- (3) Disclosure might endanger or injure the complainant or third party.

(g) When conditions for disclosure have been met, the Board shall disclose the following information regarding complaints received against licensees and unlicensed persons, if applicable:

- (1) Total number of complaints meeting conditions of disclosure;
- (2) Date of receipt and nature of any complaint;
- (3) Disposition of each complaint by indicating whether the matter has been:
  - (A) Referred to formal disciplinary action;
  - (B) Disposed of through any other action, formal or informal; or
  - (C) Other disposition.
- (4) Information which is statutorily mandated to be disclosed;
- (5) Current status of criminal prosecution resulting from a complaint received by the Board;
- (6) A description of the type of public information not included in the system (i.e., civil judgments, criminal convictions, unsubstantiated complaints); and
- (7) Disclaimers indicating that the system does not constitute endorsement or non-endorsement of a person, and that the system may not contain all available information.